IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re ENRON CORPORATION SECURITIES LITIGATION	§	
MARK NEWBY, et al.,	§	
Plaintiffs,	§	
v.	§	**Civil Action No.: H-01-3624 (consolidated)**
ENRON CORPORATION, et al.,	§	
Defendants.	§	

SUPPLEMEMTAL APPENDIX IN SUPPORT OF DEFENDANT LOU L. PAI'S MOTION TO DISMISS CONSOLIDATED AMENDED COMPLAINT

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LOU L. PAI SUPPLEMENTAL APPENDIX

TAB	DATE	DESCRIPTION
1	December 3, 2001	Jointly Administered Motion of the Debtors for Authority to Pay Prepetition Employee Compensation, Benefits, Reimbursable Business Expenses and Related Administrative Costs
2	2001	New Power Holdings, Inc. Form 10-K for the Year Ending December 31, 2001

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11**
ENRON CORP., ET AL.,	:	**Case No. 01-16034 (____)**
	:	**Jointly Administered**
Debtors.	:	

MOTION OF THE DEBTORS FOR AUTHORITY TO PAY PREPETITION EMPLOYEE COMPENSATION, BENEFITS, REIMBURSABLE BUSINESS EXPENSES AND RELATED ADMINISTRATIVE COSTS

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Enron Corp. and certain of its affiliated debtor entities (collectively, the "Debtors"), as debtors and debtors in possession, file this Motion and respectfully submit as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. On December 2, 2001 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code

("Bankruptcy Code"). The Debtors continue to be authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtors and their approximately 3,500 other direct and indirect subsidiaries (collectively, the "Enron Companies"), building upon knowledge gained in over 70 years of experience in the energy business, have grown into a worldwide leader in products and services related to the sale and delivery of natural gas, electricity and communications to wholesale and retail customers. As of the Petition Date, the Enron Companies employed approximately 25,000 individuals throughout the world and were recently ranked seventh on the Fortune 500 list of the largest U.S. corporations.

4. For the fiscal year ended December 31, 2000, the Enron Companies generated $101 billion in annual revenues on a consolidated basis. As set forth in the Enron Companies' Form 10-Q filed on October 31, 2001 (the "10-Q") for the quarter ending on September 30, 2001, the Enron Companies' consolidated books and records reflected assets totaling approximately $61 billion and liabilities totaling approximately $49 billion. [1]

5. The Enron Companies divide their business operations into four primary business units: Enron Wholesale Services, Enron Retail Services, Enron Transportation Services, and Enron Global Services. These business units provide the following services:

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[1] As indicated in the 10-Q, the numbers set forth above are unaudited.

a. Enron Wholesale Services encompasses the global wholesale businesses related to natural gas, power, metals, coal, crude and liquids, weather, forest products and steel. This business unit also includes EnronOnline^{TM}, the world's largest e-commerce site for global commodity transactions.

b. Enron Retail Services extends Enron's energy expertise and capabilities to end-use retail customers in the industrial and commercial business sectors to manage their energy requirements and reduce their total energy costs.

c. Enron Transportation Services operates one of the largest gas transmission systems in the United States spanning approximately 25,000 miles with a peak capacity of 10.1 billion cubic feet per day.

d. Enron Global Services includes energy-related assets throughout the world that are not included in the Wholesale, Retail and Transportation business units, including, but not limited to, assets in the United States, Brazil, Europe, and India.

6. On October 16, 2001, Enron Corp. issued a press release announcing its results for the three months ended September 30, 2001 (the "Third Quarter Earnings Release"). Although the release disclosed that Enron Corp.'s total recurring net income increased to $393 million dollars, as compared to $292 million dollars for the comparable period the prior year, the release also disclosed non-recurring charges totaling $1.01 billion dollars (after tax). In addition, in connection with the early termination of certain structured finance arrangements, it was also publicly reported that Enron's shareholders' equity had been reduced by approximately $1.2 billion.

7. During the period from October 15, 2001 up to and including Enron Corp.'s execution of an Agreement and Plan of Merger, by and among Dynegy, Inc. ("Dynegy") and certain of its subsidiaries (the "Merger Agreement") on November 9, 2001, there was a sharp decrease in the price of Enron Corp.'s common

stock. During the same period, Enron's creditors and trading counterparties continued to question the Enron Companies' financial credibility and each of the three primary rating agencies, Standard & Poor's, Moody's and Fitch, had continuous discussions with Dynegy and Enron regarding the impact of the proposed merger on Enron's financial condition.

8. On November 9, 2001, in an effort to improve their liquidity and restore shareholder, customer and vendor confidence, the Debtors and certain of their affiliates entered into the Merger Agreement, whereby the Debtors agreed to merge with and into Dynegy. Under the terms of the Merger Agreement, Dynegy agreed to acquire the Debtors for approximately $9,000,000,000 in Dynegy stock and assume approximately $13,000,000,000 in debt. Concurrently therewith, the Debtors, the Northern Natural Gas Company, an indirect subsidiary of Enron Corp. ("Northern Natural"), and Dynegy entered into a Subscription Agreement whereby Dynegy purchased $1,500,000,000 of preferred stock of Northern Natural.

9. Soon after entering into the Merger Agreement, a number of events occurred involving Dynegy that are the subject of litigation. Ultimately, Dynegy advised the Debtors that it was terminating the Merger and then on the morning of November 28, 2001, Standard & Poor's, Moody's, and Fitch each downgraded Enron's credit rating to speculative or "junk" status.

RELIEF REQUESTED

10. By this Motion, and pursuant to sections 363(b) and 105(a) of the Bankruptcy Code, the Debtors seek authority, in their discretion and in the exercise of their business judgment, to: (a) honor and pay in full the accrued and unpaid

Compensation Obligations, Benefit Obligations, Vacation Obligations, Reimbursement Obligations, Administrative Obligations, Independent Contractor Obligations and Severance Obligations (as such terms are defined below, collectively the "Employee Obligations") due and owing to the Employees (as such term is defined immediately below) and (b) continue their plans, practices, programs and policies with respect to the foregoing as such plans, practices, programs and policies were in effect as of the Petition Date. Hereinafter, all persons entitled, as of the Petition Date, to compensation, benefits, reimbursement, severance or other payment as a consequence of being employed by the Debtors as of the Petition Date shall be referred to as "Employees."[2]

11. The Debtors request that the Court authorize and direct Citibank Delaware, at which the Debtors maintain their payroll and disbursement accounts, to honor and pay all prepetition checks issued by and fund transfer requests from the Debtors with respect to the Employee Obligations that were not honored or paid as of the Petition Date. In addition, the Debtors seek authority, in their discretion and in the exercise of their business judgment, to issue new postpetition checks, or effect new fund transfer requests, with respect to the Employee Obligations to replace any prepetition checks or fund transfer requests that may be dishonored or denied.

Compensation Obligations

12. As of the Petition Date, the Enron Companies employed approximately 25,000 full- and part-time employees worldwide, including approximately

[2] The Debtors anticipate that certain of their non-debtor affiliates may also file voluntary petitions under chapter 11. To the extent that any affiliates of the Debtors commence chapter 11 cases which are jointly administered with these chapter 11 cases, the Debtors request that the relief requested herein be extended to such Debtors and their estates.

7,000 hourly wage employees and approximately 18,000 salaried employees. Enron Corp. processes payroll for the Enron Affiliates[3] in an aggregate amount of approximately $2.3 billion on an annual basis. The regular payroll periods for the Employees of the Debtors range from bi-weekly (in the case of hourly wage Employees) to semi-monthly (in the case of salaried Employees). The payroll periods for substantially all of the Employees ended on November 30, 2001 and was funded by the Debtors on or about November 29, 2001. The next payroll period for substantially all hourly wage Employees ends on December 14, 2001, and the next payroll period for substantially all salaried Employees ends on December 15, 2001.

13. Further, the Debtors are required by law to withhold from their Employees' pay all applicable federal, state, and local income taxes, state unemployment taxes, and social security and Medicare taxes (collectively, the "Trust Fund Taxes") and to remit the Trust Fund Taxes to the appropriate taxing authorities (collectively, the "Taxing Authorities"). In addition, the Debtors are required to match from their own funds the social security and Medicare taxes, and pay, based on a percentage of gross payroll, additional amounts for state and federal unemployment insurance (collectively, the "Employer Payroll Taxes" and, together with the Trust Fund Taxes, the "Payroll Taxes") and to remit the Payroll Taxes to the Taxing Authorities. As of November 30, 2001, the Enron Affiliates owe approximately $1.2 million in Payroll Taxes.

14. The Debtors estimate that, as of the Petition Date, their obligations for the immediately preceding payroll periods in respect of accrued and unpaid wages,

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[3] "Enron Affiliates" refers to all of the Enron Companies with the exception of Portland General Electric Company, EOTT Energy Partners, L.P., Enron Facilities Services, Inc., Enron Canada Corp., and Enron Europe Limited. None of these excepted entities are Debtors.

salaries, and Payroll Taxes, are approximately $4.6 million (collectively, the "Compensation Obligations"). The Debtors request authority, in their discretion and in the exercise of their business judgment, to honor and pay in full the accrued and unpaid Compensation Obligations.

Retirement Benefit Obligations

15. In the ordinary course of their businesses, the Debtors sponsor and maintain two tax-qualified noncontributory defined benefit pension plans (the "Pension Plans") that provide retirement income benefits for substantially all of the Employees of the Enron Companies.[4] The Debtors annually contribute to the Pension Plans the amount required pursuant to the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and the Internal Revenue Code of 1986, as amended (the "Tax Code"). In addition to funding costs associated with the Pension Plans, the Debtors are obligated, pursuant to ERISA, to pay premiums in respect of an insurance program administered by the Pension Benefit Guaranty Corporation (the "PBGC"), which insures accrued benefits under the Pension Plan, subject to certain limits (the amounts required to be contributed to the Pension Plan and premiums paid in respect of the PBGC are collectively referred to as the "Pension Plan Obligations").

16. In the ordinary course of their businesses, the Debtors sponsor and maintain tax-qualified defined contribution plans (the "Savings Plans"), which provide eligible Employees with the opportunity to make pre-tax salary deferral contributions (the "Savings Plan Obligations," and collectively with the Pension Plan Obligations, the "Retirement Benefit Obligations"). Amounts contributed to the Savings Plans are later

[4] The Pension Plans comprise several underlying plans that cover Employees of the Enron Companies.

distributed to the eligible participants and their beneficiaries upon retirement or other separation from service. The Debtors previously provided certain matching contributions on a portion of employee pay deferred under the Savings Plans. The Savings Plans were amended on November 28, 2001 to cease future matching contributions. There is a brief delay between (a) the deduction of contributions from the Employees' paychecks and (b) the disbursement of these funds to the trustee for the Savings Plans. On November 30, 2001, approximately $4.1 million (excluding costs of administration referenced below) was paid by Enron Corp. into a trust account to fund the Savings Plan Obligations.

Health and Welfare Benefit Obligations

17. The Debtors collectively sponsor several health and welfare benefit plans to provide benefits to the Employees, including medical and health, life insurance, death, dental, vision care, short- and long-term disability, retiree medical and dental, and supplemental unemployment (the "Health Benefit Plans").

18. Benefits provided under the Health Benefit Plans are insured[5] by the Debtors and are paid out of general corporate assets. The Debtors estimate that aggregate annual expenditures under the Health Benefit Plans for active Employees are approximately $55 million.[6] Because of the manner in which expenses are incurred and claims are processed under the Health Benefit Plans, it is difficult for the Debtors to determine the accrued obligations under the Health Benefit Plans outstanding at any particular time. The Debtors estimate that, as of the Petition Date, the obligations to be

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[5] Except the CIGNA and UHC network fees, Merck prescription plan, and the MetLife dental network fees, which are self-funded.

[6] Enron Corp. maintains the Health Benefit Plans for a number of its affiliated companies.

paid to or on behalf of Employees under the Health Benefit Plans aggregate approximately $17 million (the "Health Benefit Plan Obligations", and collectively with the Retirement Benefit Obligations, the "Benefit Obligations").

19. Additionally, as requested or required by law, the Enron Affiliates make certain deductions from Employee wages for flexible spending plans, charitable donations, and wage garnishments. As of November 30, 2001, the Enron Affiliates withheld approximately $382,000 from salaried Employees and as of November 29, 2001, the Enron Affiliates withheld approximately $32,000 from bi-weekly Employees. The Debtors request authorization to pay such amounts.

Vacation Obligations

20. Under the Debtors' vacation policy, Employees are generally eligible for three (3) to five (5) weeks of vacation per year based on years of service. Employees are generally eligible to carry a certain portion of unused vacation into the next year. Unused vacation is generally paid to Employees only upon layoff or death. As of the Petition Date, the Debtors estimate that Employees were owed approximately $15.5 million in prepetition accrued but unpaid vacation benefits (the "Vacation Obligations"). The Debtors request authorization to continue honoring their Vacation Obligations.

Reimbursement Obligations

21. The Debtors customarily reimburse their Employees who incur a variety of business expenses (such as travel expenses) in the ordinary course of performing their duties on behalf of the Debtors. The Debtors also reimburse Employees for certain tuition expenses under an educational assistance policy. In addition, the

Debtors customarily pay certain obligations directly to third parties on behalf of their Employees to the extent that such obligations were business related (including, but not limited to, paying amounts owed with respect to certain corporate credit cards issued for the benefit of the Debtors for use by certain Employees) or incurred under or in connection with the Debtors' various benefit plans, programs and policies. Because the Employees and affected third parties do not always submit claims for reimbursement immediately, it is difficult for the Debtors to determine the amounts outstanding at any particular time. The Enron Companies (with the exception of European, Canadian and Australian entities) estimate that, as of the Petition Date, their prepetition Reimbursement Obligations described above aggregate approximately $16 million. The Debtors request authority, in their discretion and in the exercise of their business judgment, to honor and pay in full the accrued and unpaid Reimbursement Obligations.

Administrative Obligations

22. As is customary in companies of this size, the Debtors utilize the services of certain professionals and consultants in the ordinary course of business in order to facilitate the administration and maintenance of the Debtors' books and records with respect to the Benefit Obligations ("Administrative Obligations"). The Debtors estimate that aggregate annual Administrative Obligations are $45 million. Prior to the Petition Date, the Debtors advanced $1.1 million for then-outstanding Administrative Obligations. Due to the commencement of these chapter 11 cases, it is possible such payments have not been made. The Debtors submit that payment of such amounts is critical to their ongoing operations. Accordingly, the Debtors request authority to honor and pay in full the accrued and unpaid Administrative Obligations, $1.1 million.

Independent Contractors

23. To supplement their workforces, the Debtors utilize the services of independent contractors who provide necessary services relating to the operation of the Debtors' businesses. Included among these independent contractors are individuals from temporary service agencies and persons acting as freelance consultants providing services with respect to general management and various professional disciplines, such as engineering and environmental consulting (such individuals and corporate entities collectively, the "Independent Contractors"). Payment to each of the Independent Contractors varies according to the terms of each Independent Contractor's contract with the Debtors.

24. It would be difficult, time-consuming and expensive to replace these Independent Contractors due to their specialized skills, training and knowledge of the Debtors' operations and facilities. Although contract employees, these individuals work closely with the Debtors' wage and salary employees and are considered an important part of the team. The Debtors estimate that, as of the Petition Date, their total accrued and unpaid prepetition obligations to the Independent Contractors are approximately $2.0 million (the "Independent Contractor Obligations"). The Debtors request authority, in their discretion and in the exercise of their business judgment, to honor and pay in full the accrued and unpaid Independent Contractor Obligations.

Severance Amount

25. In order to facilitate a reduction in force, the Debtors plan to provide severance benefits in an amount equal to $4,500 per severed Employee (the "Severance Amount"), which amount will serve as a credit against (1) accrued and

unpaid wages, (2) amounts due under the severance plan the Debtors have in place at the time of termination of employment, and (3) obligations of the Debtors pursuant to the Worker Adjustment Retraining Notification Act, to the extent applicable. The Debtors request authority, in their discretion and in the exercise of their business judgment, to pay the Severance Amount to each severed employee, without prejudice to the Debtors' right to subsequently seek authority to pay all or part of priority employee obligations.

Bank Accounts

26. With respect to the Employee Obligations that have been paid, but remain outstanding as of the Petition Date, the Debtors request that, to the extent practicable, Citibank Delaware be authorized and directed to honor such checks or fund transfers regardless of whether they were issued prepetition or postpetition. In addition, the Debtors seek authority, in their discretion and in the exercise of their business judgment, to issue new postpetition checks or fund transfer requests on account of the Employee Obligations to replace any prepetition checks or fund transfer requests that may have been dishonored or denied.

27. While the Debtors' banks are generally prohibited from honoring prepetition checks and fund transfer requests, it is practicable to direct Citibank Delaware to honor checks drawn on or requests for transfer of funds from the payroll account to satisfy the Employee Obligations. In addition, the Debtors utilize a centralized payroll function through which most (if not all) of the payroll obligations of the Debtors' domestic affiliates are administered. Many of the Debtors' domestic affiliates have not filed petitions for reorganization relief under chapter 11 of the Bankruptcy Code. If Citibank Delaware is not directed to honor the Debtors' prepetition checks and fund

transfer requests, compensation and benefit obligations of these non-debtor entities may fail to be honored as well. The payroll account specifically includes the following account: 39109855.

GROUNDS FOR RELIEF

28. As a result of these chapter 11 filings, the Debtors are prohibited from paying claims that arose before the Petition Date unless the Debtors receive specific authorization from the Court. Pursuant to section 507(a)(3) of the Bankruptcy Code, the Employees' claims for "wages, salaries, or commissions, including vacation, severance, and sick leave pay" earned within ninety (90) days before the Petition Date are afforded priority status to the extent of $4,650 per Employee. Similarly, section 507(a)(4) of the Bankruptcy Code provides that Employees' claims for contributions to certain employee benefit plans are also afforded priority status to the extent of $4,650 per Employee covered by such plan, less any amounts paid pursuant to section 507(a)(3).

29. Section 363(b)(1) of the Bankruptcy Code provides that a debtor, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. 363(b)(1). Furthermore, section 105(a) of the Bankruptcy Code provides that the Court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. 105(a). Accordingly, because most (if not all) such priority claims may be paid in full under a plan of reorganization, unless the holders otherwise agree, accelerated payment of such claims at this time is appropriate and this Court is authorized to grant the relief requested.

30. The Debtors believe that very few Employees (approximately five) are owed in excess of $4,650 on account of Compensation Obligations and Benefit Obligations as of the Petition Date. Accordingly, substantially all of the Debtors' Compensation Obligations and Benefit Obligations constitute priority claims. The Debtors submit that payment of such amounts at this time is necessary and appropriate. The Debtors submit, however, that to the extent any Employee is owed in excess of $4,650 on account of Compensation Obligations and Benefit Obligations, payment of such amounts is necessary and appropriate and is authorized under section 105(a) of the Bankruptcy Code pursuant to the "necessity of payment" doctrine, which "recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay prepetition claims where such payment is essential to the continued operation of the debtor." In re Ionosphere Clubs. Inc., 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989); In re Chateaugay Corp., 80 B.R. 279 (S.D.N.Y. 1987). This doctrine is consistent with the paramount goal of chapter 11 of "facilitating the continued operation and rehabilitation of the debtor." Ionosphere Clubs, 98 B.R. at 176.

31. It is essential to the continued operation of the Debtors' businesses and the maximization of value to creditors that the services of the Employees be retained and that the morale of such Employees be maintained. If the checks issued or fund transfers requested in respect of the Employee Obligations are neither honored nor replaced, morale will deteriorate and the Employees will suffer extreme personal hardship. Consequently, it is critical that the Debtors have the authority, in their discretion and the exercise of their business judgment, to continue their ordinary course

of business personnel policies, programs and procedures that were in effect prior to the commencement of these chapter 11 cases.

32. The Debtors further submit that the services giving rise to the Administrative Obligations are specialized and, in fact, critical to the continued maintenance and administration of the Debtors' books and records with respect to Benefit Obligations. In each instance, the Debtors have determined in their business judgment that it is more cost efficient for the Debtors to utilize the services of these professionals on an as-needed basis, rather than hire employees, for whom the Debtors would be required to provide Employee Obligations, to perform those same tasks. Failure to pay the Administrative Obligations could result in a disruption or discontinuation of the services provided by these professionals, which would render the Debtors unable to continue the Benefit Obligations. Accordingly, the Debtors request authorization to pay the Administrative Obligations and to continue to use the services of such professionals and consultants in the ordinary course of business to facilitate the administration and maintenance of the Debtors' books and records with respect to the Benefit Obligations.

33. The Debtors submit that the payment of the Employee Obligations in accordance with the Debtors' prepetition business practices is in the best interest of the Debtors, their estates and creditors, and will enable the Debtors to continue to operate their businesses in an economic manner without disruption. Indeed, the Employees are central to their operations.

34. With respect to Trust Fund Taxes, in particular, the Supreme Court has held that taxes such as excise taxes, taxes under the Federal Insurance Contributions Act ("FICA") and withholding taxes are property held by a debtor in trust for another

and, as such, do not constitute property of its estate. See Begier v. Internal Revenue Serv., 496 U.S. 53, 55-56, 59-61, 66-67 (1990). Accordingly, the Bankruptcy Code does not prohibit a debtor from paying such taxes.

35. In the normal course of business, the Debtors maintain accurate and complete records of intercompany charges and payments between the Enron Companies with respect to Employee Obligations. Moreover, the Debtors intend to continue to maintain such records of any amounts paid with respect to the Employee Obligations and any and all other amounts sought to be paid pursuant hereto. Further, the Debtors will continue to maintain such records on an ongoing basis.

36. The Debtors have on deposit sufficient funds in the payroll account to enable Citibank Delaware to pay in full the Employee Obligations drawn on such account. Accordingly, Citibank Delaware will not be prejudiced by the entry of an order directing it to honor checks or fund transfer requests paying such amounts.

37. The Debtors seek authorization, in their discretion and in the exercise of their business judgment, to pay the above-described Employee Obligations in accordance with their plans, practices, programs and policies that were in place before the Petition Date. In addition, the Debtors seek authorization to honor and continue their plans, practices, programs and policies with respect to the Employee Obligations in the ordinary course of business.

38. The authorization sought in this Motion shall not be deemed to constitute postpetition assumption or adoption of any practice, policy, plan, program or agreement pursuant to section 365 of the Bankruptcy Code. The Debtors are in the

process of reviewing these matters and reserve all of their rights under the Bankruptcy Code with respect thereto.

NOTICE

39. As of the filing of this Motion, no trustee, examiner or creditors' committee has been appointed in these chapter 11 cases. Notice of this Motion has been given via facsimile, hand delivery, or overnight mail to the United States Trustee, each of the Debtors' twenty largest unsecured non-insider creditors, the Securities and Exchange Commission, the United States Attorney's Office, the United States Attorney General, the Internal Revenue Service, and the Debtors' postpetition lenders. Because of the exigencies of the circumstances and the irreparable harm to the Debtors, their estates, and all parties in interest that will ensue if the relief requested herein is not granted, the Debtors submit that no other notice need be given.

40. No previous motion for the relief sought herein has been made to this or any other Court.

WHEREFORE the Debtors respectfully request that the Court enter an order granting the relief requested herein, and such other and further relief as may be just.

Dated: New York, New York
December 3, 2001

By: /s/ Brian S. Rosen

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ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11**
ENRON CORP., ET AL.,	:	**Jointly Administered Under 01-16034 ( )**
Debtors.	:	

ORDER AUTHORIZING DEBTORS TO PAY PREPETITION EMPLOYEE COMPENSATION, BENEFITS, REIMBURSABLE BUSINESS EXPENSES AND RELATED ADMINISTRATIVE COSTS

Upon consideration of the motion, dated December 3, 2001 (the "Motion"), filed by Enron Corp. and certain of its affiliated entities (collectively, the "Debtors"), as debtors and debtors in possession, seeking authority, in their discretion and in the exercise of their business judgment, to pay prepetition employee compensation, benefits, reimbursable business expenses and related administrative costs; and it appearing that the Court has jurisdiction to consider the Motion; and it appearing that the relief requested in the Motion is in the best interest of the Debtors, their estates and creditors; and it appearing that due notice of the Motion has been given and no further notice need be given; and upon the proceedings before the Court; and good and sufficient cause appearing;

IT IS HEREBY ORDERED THAT:

1. The Motion is granted.

2. The Debtors are authorized, in the exercise of their business judgment and in the ordinary course of business, to pay or honor, as the case may be, the Compensation Obligations, Benefit Obligations, Vacation Obligations, Reimbursement

Obligations, Administrative Obligations, Independent Contractor Obligations and Severance Obligations (as such terms are described and defined in the Motion, the "Employee Obligations").

3. Citibank Delaware is authorized and directed to honor any prepetition checks or fund transfer requests with respect to the Employee Obligations. In addition, Citibank Delaware is authorized and directed to honor any postpetition checks or new fund transfer requests with respect to the Employee Obligations.

4. To the extent that any affiliate of the Debtors commence chapter 11 cases which are jointly administered with these chapter 11 cases, the provisions of this Order shall apply to such Debtors and their estates.

5. Nothing contained herein shall be deemed to constitute postpetition assumption or adoption of any practice, policy, plan, program or agreement pursuant to section 365 of the Bankruptcy Code. The Debtors have reserved all of their rights under the Bankruptcy Code with respect thereto.

Dated: New York, New York
____________, 2001

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UNITED STATES BANKRUPTCY JUDGE

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As filed with the Securities and Exchange Commission on March , 2001

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

[X] ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2000

[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to

Commission File Number 1-16157
NewPower Holdings, Inc.
(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	52-2208601 (I.R.S. Employer Identification No.)
One Manhattanville Road Purchase, New York (Address of principal executive offices)	10577 (Zip Code)

Registrant's telephone number, including area code: (914) 697-2100

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, $.01 par value, of NewPower Holdings, Inc.	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. [X] Yes [ ] No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. [ ]

The aggregate market value of common equity held by non-affiliates of the registrant as of March 26, 2001 was approximately $278,123,000 (based on the closing sales price of $6.25 per share as reported for the New York Stock Exchange-Composite Transactions).

As of March 26, 2001, there were 58,150,120 shares of NewPower Holdings, Inc. common stock, par value $.01 per share, outstanding. As of March 26, 2001, there were Class A warrants outstanding to purchase 69,070,800 shares of NewPower Holdings, Inc. common stock at an exercise price of $0.05 per share.

DOCUMENTS TO BE INCORPORATED BY REFERENCE

A portion of the information required by Part III of this report (Items 11 and 12) is incorporated by reference from the registrant's proxy statement to be filed pursuant to Regulation 14A with respect to the annual meeting of stockholders scheduled to be held on May 9, 2001.

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NewPower Holdings, Inc.
Form 10-K
For the Year Ended December 31, 2001

Item 1. Business

General

NewPower Holdings, Inc. ("NPW") was incorporated in Delaware in November 1999 as EMW Energy Services Corp. and in June 2000, changed its name to TNPC, Inc. We became a public company on October 5, 2000. On January 19, 2001 TNPC, Inc. changed its name to NewPower Holdings, Inc. The mailing address for NPW's headquarters is One Manhattanville Road, 3rd Floor, Purchase, New York 10577. NPW's website is www.newpower.com.

We were formed by Enron Corp., the largest trader and marketer of electricity and natural gas in North America, to target the rapidly restructuring residential and small commercial markets for these products.

We are the first nationally branded provider of electricity and natural gas to residential and small commercial customers in the United States. Through our subsidiary, The New Power Company, we are offering customers in restructured retail energy markets competitive energy prices, flexible payment and pricing choices, improved customer service, and other innovative products, services and incentives. Although our initial focus will be on providing electricity and natural gas, as we develop our business, we will offer additional products, services and customized solutions for residential and small commercial customers.

We estimate that the total residential and small commercial electric and natural gas marketplace in the United States exceeds $150 billion annually, making it one of the largest consumer markets to undergo competitive regulatory restructuring. As of the end of 2000, a significant portion of markets in nine states were open to retail electric competition, and 11 states had a significant portion of markets open to retail natural gas competition. A number of other states had also approved pilot programs to evaluate restructuring on a test basis, and laws or regulatory plans providing for future retail electric competition had been adopted in several other states. In many of these jurisdictions, final rules implementing market restructuring are not yet finalized and effective, but we estimate that by the end of 2002, roughly 50% of the U.S. population, or approximately 55 million households, will be in markets where consumers can choose either their electricity or natural gas provider or both. As was the case in the deregulation of the long-distance telephone markets, we believe that a significant percentage of consumers will be receptive to switching from their monopoly energy providers to competitive providers.

Although experiences in California with respect to power supply and wholesale pricing have received extensive media coverage, and there have been suggestions that reregulation should occur in that state and elsewhere, we believe that the combination of factors unique to California should not lead to material reregulation of retail marketing of power or gas in other states with significant markets that have restructured or are scheduled to restructure. See discussion of "California Experience" below.

We have acquired and plan to continue acquiring customers by two principal means. First, we will market directly to customers and will acquire customers on a one-by-one basis, as is typical in a number of mass-market subscriber industries, such as telephone service. We began acquiring power customers in this fashion in select utility markets in Pennsylvania and New Jersey in September 2000. Following those efforts, we entered two additional power markets in Pennsylvania at the end of 2000, as well as two markets in Ohio at the beginning of 2001. As of December 31, 2000, we had acquired approximately 25,000 customers through our direct marketing efforts.

In addition to direct marketing to customers, we have acquired customers though the bulk acquisition of customer portfolios from other companies in the industry. We acquired the residential and small commercial retail energy business of subsidiaries of Columbia Energy Group on July 31, 2000, which included approximately

285,000 natural gas customers and 20,000 power customers in eight states, primarily Georgia, Ohio and Pennsylvania. We also acquired approximately 34,000 gas customers from Energy USA Retail, Inc., a subsidiary of NiSource, Inc., which occurred in December 2000. In October 2000, we were awarded a contract as a Competitive Default Service Provider in the PECO Energy market in eastern Pennsylvania, whereby we have acquired approximately 240,000 randomly selected residential power customers. In March 2001, we entered into agreements to acquire approximately 7,200 gas customers in the Atlanta, Georgia market from Reliant Energy Retail, Inc.

Currently, we are evaluating several additional markets for direct marketing entry in 2001, which may include electric power or gas markets in California, Connecticut, Massachusetts, Ohio, New Jersey, Pennsylvania and Texas, among other states. Other deals for the portfolio acquisition of customers are also currently under review or negotiation.

For other recent business developments, see "Item 7. Management's Discussion and Analysis" of this Form 10-K.

Business Strategy

Our success will depend upon our ability to identify favorable restructured energy markets and to acquire customers on a profitable basis. Specifically, we intend to:

Pursue Our "First Mover's" Advantage to Create a National Brand for Retail Energy. We intend to become the first company to establish a national brand for consumer energy and related products and services. Currently, the retail energy industry is highly fragmented, with no single firm enjoying significant market share on a national basis. We believe that being first to establish a nationwide brand will distinguish us as the leader in this emerging customer service functions in many industries. Revenue management includes the electronic tracking of a customer's billing information, bill preparation and mailing, and customer payments. With respect to customer care, IBM employs, trains and supervises the customer representatives who will perform customer acquisition activities, including answering in-bound phone calls, as well as customer care activities, including answering customer billing, service and similar inquiries. IBM is also developing and hosting our website for online commerce and billing applications. We believe these arrangements will enable us to offer superior customer service in a cost-effective, readily scalable manner. In addition to the revenue management and customer care agreement, IBM made an equity investment and has agreed to purchase additional common stock during the first year after this offering. For further information, see description of "Material Contracts - Agreements with Other Third Parties - IBM Agreement," below).

E. Customer Base. We believe that the (i) approximately 285,000 natural gas customers and 20,000 electricity customers we acquired in the Columbia Energy Services acquisition; (ii) approximately 240,000 customers we acquired in connection with the PECO CDS contract; (iii) approximately 34,000 customers we acquired from NiSource; (iv) approximately 7,200 gas customers we will acquire from Reliant Energy in the Atlanta market; and (v) approximately 25,000 customers we have acquired through our own initial marketing efforts, already makes us the second largest competitive marketer of electricity and gas in the country. These customers also give us an important base for purposes of implementing risk management strategies, deriving marketing information for customer acquisition and retention, and achieving scale economies in operations.

F. Available Capital. We have raised approximately $762.5 million in equity capital since our formation in late 1999, including $543 million from our initial public offering in October 2000. These amounts provide us an exceptionally strong balance sheet, and will provide funds for customer acquisitions, brand development, further expansion and completion of our infrastructure, and for working capital. As of December 31, 2000, we had cash, cash equivalents and investments in marketable securities of $539.4 million.

Our Market Opportunities

The Restructuring of the Retail Electric Power Market

Overview. The electric power industry in the United States is undergoing a period of fundamental change. Through regulatory and legislative initiatives, an industry of locally or regionally regulated monopolies is being reconfigured to create an increasingly open competitive environment in which alternative energy service providers can compete with traditional utilities. With the experience of favorable results from the restructuring and deregulation of other industries, such as telecommunications, many federal regulators and state authorities have concluded that various aspects of the generation, transmission, and distribution of electric power could be opened to competition in ways that would benefit consumers through increased innovation, and better pricing and service offerings.

Regulatory restructuring first occurred in wholesale power markets in response to initiatives by the Federal Energy Regulatory Commission, referred to as the "FERC" in this document. Specifically, in 1996 the FERC adopted Order No. 888, which significantly advanced the opening of the wholesale market for electricity sold in interstate commerce to competitive market forces. Enron was a leader in capitalizing on those restructuring initiatives, and is now North America's largest merchant trader of wholesale electricity.